



Texas Department of Insurance

Division of Workers' Compensation

Medical Fee Dispute Resolution, MS-48

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name and Address

THE SPINE HOSPITAL OF SOUTH TEXAS
18600 NORTH HARD OAK BLVD
SAN ANTONIO, TX 78247

DWC Claim #:

Injured Employee:

Date of Injury:

Employer Name:

Insurance Carrier #:

Respondent Name

ST PAUL FIRE & MARINE INSURANCE

Carrier's Austin Representative Box

15

MFDR Tracking Number

M4-07-3844-02

MFDR Date Received

FEBRUARY 22, 2007

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary Dated September 10, 2008: "It is our position, based on TWCC Rule 134.301 (c)(6) that the carrier improperly denied or reduced payment on our bill pursuant to Texas Administrative Code Sections 133 and 134. Our services should have been paid at 75% of total audited charges for billed that reached the stop-loss threshold of \$40,000. We do not feel that the above guidelines were utilized for the services of August 9, 2006 through August 11, 2006 for [Injured Worker]."

Requestor's Position Summary Dated August 23, 2011: "We are writing in regards to your recent letter of August 10, 2011 concerning the Mandate for the Stop Loss Judgment issued on January 19, 2011 and the opportunity to supplement additional information for the above MDR appeal. Our original MDR appeal requested to be paid at 75% of billed charges according to Texas Administrative Code 134.401 for Acute Inpatient Fee Guidelines for hospital admissions exceed the \$40,000. minimum threshold. We are asking that the entire admission be paid at 75% of billed charges based on unusual extensive services required during the admission."

Amount in Dispute: \$40,012.50

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary Dated March 05, 2007: Respondent submitted a DWC-60 response but no position statement provided.

Response Submitted by: St Paul Travelers

SUMMARY OF FINDINGS

Disputed Dates	Disputed Services	Amount In Dispute	Amount Due
August 09, 2006 through August 11, 2006	Inpatient Hospital Services	\$40,012.50	\$0.00

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.305 and §133.307, 31 *Texas Register* 10314, applicable to requests filed on or after January 15, 2007, sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §134.401, 22 *Texas Register* 6264, effective August 1, 1997, sets out the fee guidelines for inpatient services rendered in an acute care hospital.
3. 28 Texas Administrative Code §134.1, 31 *Texas Register* 3561, effective May 2, 2006, sets out the guidelines for a fair and reasonable amount of reimbursement in the absence of a contract or an applicable division fee guideline.

The services in dispute were reduced/denied by the respondent with the following reason codes:

Explanation of Benefits

- SDAY W1 – Workers compensation state f/s adj. If reduction, then processed according to the texas fee guideline
- INCL 97 – Payment is included in the allowance for another service/procedure. If reduction, then processed according to the texas fee guidelines
- DOP W10 – No maximum allowable defined by fee guideline. Reduced to fair & reasonable. No mar has been set by TWCC in the medical fee guideline
- Z26F W4 – No additional reimbursement allowed after review of appeal/reconsideration. After carefully reviewing the resubmitted invoice, additional reimbursement is not justified
- Z014 97 – Payment is included in the allowance for another service/procedure. This procedure is considered integral to the primary procedure billed

Dispute M4-07-3844 was originally decided on September 17, 2008 and subsequently appealed to a contested case hearing at the State Office of Administrative Hearings (SOAH) under case number 454-09-0755.M4. This dispute was then remanded to the Texas Department of Insurance, Division of Workers' Compensation (TDI-DWC) pursuant to a February 16, 2009 SOAH order of remand. As a result of the remand order, the dispute was re-docketed at medical fee dispute resolution and is hereby reviewed

Issues

1. Did the audited charges exceed \$40,000.00?
2. Did the admission in dispute involve unusually extensive services?
3. Did the admission in dispute involve unusually costly services?
4. Is the requestor entitled to additional reimbursement?

Findings

This dispute relates to inpatient surgical services provided in a hospital setting with reimbursement subject to the provisions of Division rule at 28 Texas Administrative Code §134.401, titled *Acute Care Inpatient Hospital Fee Guideline*, effective August 1, 1997, 22 Texas Register 6264. The Third Court of Appeals' November 13, 2008 opinion in *Texas Mutual Insurance Company v. Vista Community Medical Center, LLP*, 275 South Western Reporter Third 538, 550 (Texas Appeals – Austin 2008, petition denied) addressed a challenge to the interpretation of 28 Texas Administrative Code §134.401. The Court concluded that "to be eligible for reimbursement under the Stop-Loss Exception, a hospital must demonstrate that the total audited charges exceed \$40,000 and that an admission involved unusually costly and unusually extensive services." Both the requestor and respondent in this case were notified via form letter that the mandate for the decision cited above was issued on January 19, 2011. Each was given the opportunity to supplement their original MDR submission, position or response as applicable. The documentation filed by the requestor and respondent to date will be considered in determining whether the admission in dispute is eligible for reimbursement under the stop-loss method of payment. Consistent with the Third Court of Appeals' November 13, 2008 opinion, the division will address whether the total audited charges **in this case** exceed \$40,000; whether the admission and disputed services **in this case** are unusually extensive; and whether the admission and disputed services **in this case** are unusually costly. 28 Texas Administrative Code §134.401(c)(2)(C) states, in pertinent part, that "Independent reimbursement is allowed on a case-by-case basis if the particular case exceeds the stop-loss threshold as

described in paragraph (6) of this subsection...” 28 Texas Administrative Code §134.401(c)(6) puts forth the requirements to meet the three factors that will be discussed.

1. 28 Texas Administrative Code §134.401(c)(6)(A)(i) states “...to be eligible for stop-loss payment the total audited charges for a hospital admission must exceed \$40,000, the minimum stop-loss threshold.” Furthermore, (A) (v) of that same section states “...Audited charges are those charges which remain after a bill review by the insurance carrier has been performed...” Review of the explanation of benefits issued by the carrier finds that the carrier did not deduct any charges in accordance with §134.401(c)(6)(A)(v); therefore the audited charges equal \$53,913.83. The division concludes that the total audited charges exceed \$40,000.
2. The requestor in its position statement asserts that “It is our position, based on TWCC Rule 134.301 (c)(6) that the carrier improperly denied or reduced payment on our bill pursuant to Texas Administrative Code Sections 133 and 134. Our services should have been paid at 75% of total audited charges for billed that reached the stop-loss threshold of \$40,000. We have previously submitted the patient medical records with the prior MDR appeal. It is worth noting that on August 9, 2006 our patient [Injured Worker], had silhouette pedicle screw instrumentation removal L4-5 and L5-S1 bilaterally, lumbar fusion exploration L4-L5 and L5-S1, laminectomy L3-L4 segment with medial on-third facetectomy, disc excision L3-L4 with posterior lumbar interbody fusion, Hahn bone instrumentation L3-L4, bilateral posterolateral intertransverse fusion at L3-L4 with local bone graft and allograft bone, ST360 pedicle screw instrumentation L3-L4. This was indeed a very detailed surgical admission not a medical admission which would require more intensive and detailed work with the patient due to wound care, wound care training and physical therapy in order to get the patient discharge ready.” The requestor presupposes that it is entitled to the stop loss method of payment. As noted above, the Third Court of Appeals in its November 13, 2008 rendered judgment that “to be eligible for reimbursement under the Stop-Loss Exception, a hospital must demonstrate that the total audited charges exceed \$40,000 and that an admission involved...unusually extensive services.” The requestor failed to demonstrate that the particulars of the admission in dispute constitute unusually extensive services in comparison to similar surgeries; therefore, the division finds that the requestor did not meet 28 TAC §134.401(c)(6).
3. In regards to whether the services were unusually costly, the third Court of Appeals’ November 13, 2008 opinion concluded that in order to be eligible for reimbursement under the stop-loss exception, a hospital must **demonstrate** that an admission involved unusually costly services thereby affirming 28 Texas Administrative Code §134.401(c)(6) which states that “Stop-loss is an independent reimbursement methodology established to ensure fair and reasonable compensation to the hospital for unusually costly services rendered during treatment to an injured worker.” The requestor failed to demonstrate the particulars of the admission in dispute that constitute unusually costly services in comparison to similar surgeries; therefore, the division finds that the requestor failed to meet 28 TAC §134.401(c)(6).
4. For the reasons stated above the services in dispute are not eligible for the stop-loss method of reimbursement. Consequently, reimbursement shall be calculated pursuant to 28 Texas Administrative Code §134.401(c)(1) titled *Standard Per Diem Amount* and §134.401(c)(4) titled *Additional Reimbursements*. The division notes that additional reimbursements under §134.401(c)(4) apply only to bills that do not reach the stop-loss threshold described in subsection (c)(6) of this section.
 - Review of the submitted documentation finds that the services provided were surgical; therefore the standard per diem amount of \$1,118.00 per day applies. Division rule at 28 Texas Administrative Code §134.401(c)(3)(ii) states, in pertinent part, that “The applicable Workers’ Compensation Standard Per Diem Amount (SPDA) is multiplied by the length of stay (LOS) for admission...” The length of stay was two days. The surgical per diem rate of \$1,118.00 multiplied by the length of stay of two days results in an allowable amount of \$2,236.00.
 - 28 Texas Administrative Code §134.401(c)(4)(B) allows that “When medically necessary the following services indicated by revenue codes shall be reimbursed at a fair and reasonable rate: (iv) Blood (revenue codes 380-399).” A review of the submitted hospital bill finds that the requestor billed \$131.50 for revenue code 390 – Blood Storage & Processing. 28 Texas Administrative Code §133.307(g)(3)(D), requires the requestor to provide “documentation that discusses, demonstrates, and justifies that the payment amount being sought is a fair and reasonable rate of reimbursement.” Review of the submitted documentation finds that the requestor does not demonstrate or justify that the amount sought for revenue codes 390 would be a fair and reasonable rate of reimbursement. Additional payment cannot be recommended.
 - Review of the medical documentation provided finds that although the requestor billed items under revenue code 278, no invoices were found to support the cost of the implantables billed. For that reason, no additional reimbursement is recommended.

The division concludes that the total allowable for this admission is \$2,236.00. The respondent issued payment in

the amount of \$13,901.33. Based upon the documentation submitted, no additional reimbursement can be recommended.

Conclusion

The submitted documentation does not support the reimbursement amount sought by the requestor. The requestor in this case demonstrated that the audited charges exceed \$40,000, but failed to discuss and demonstrate that the disputed inpatient hospital admission involved unusually extensive, and unusually costly services. Consequently, 28 Texas Administrative Code §134.401(c)(1) titled *Standard Per Diem Amount*, and §134.401(c)(4) titled *Additional Reimbursements* are applied and result in no additional reimbursement.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031, the division has determined that the requestor is entitled to \$0.00 reimbursement for the disputed services.

Authorized Signature

_____	_____	10/31/12
Signature	Medical Fee Dispute Resolution Officer	Date

_____	_____	10/31/12
Signature	Medical Fee Dispute Resolution Manager	Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute may appeal this decision by requesting a contested case hearing. A completed **Request for a Medical Contested Case Hearing** (form **DWC045A**) must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision* together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a **certificate of service demonstrating that the request has been sent to the other party.****
Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.